

Nos. PD-0724-20 & PD-0725-20

In the Court of Criminal Appeals at Austin

FILED
COURT OF CRIMINAL APPEALS
11/23/2020
DEANA WILLIAMSON, CLERK

No. 01-20-00004-CR & No. 01-20-00005-CR

In the Court of Appeals for the
First District of Texas at Houston

Ex parte

JOSEPH ERIC GOMEZ,
Applicant

On Appeal from Trial Court Case No. 1657519 and 1657521
Before the 338th Judicial District Court of Harris County, Texas

MOTION TO DISMISS APPEAL AS MOOT

TO THE HONORABLE COURT OF CRIMINAL APPEALS:

JOSEPH ERIC GOMEZ, the Applicant on two pretrial applications for writs of habeas corpus filed in the trial court, the denial of which was appealed to the Court of Appeals for the First District of Texas at Houston, and where the State has petitioned this Court for discretionary review, by and through undersigned counsel, moves this

Court to dismiss the appeal as moot and, in support thereof, would show the following.

1. Mr. Gomez filed applications for writs of habeas corpus in the trial court after the trial revoked the bonds he posted in the total amount of \$40,000 to secure his release in cause numbers 1653305 and 1653306 and raised the bail amounts in those cases to a total of \$150,000 without cause. The trial court denied the applications and Mr. Gomez appealed that judgment to the Court of Appeals for the First District of Texas as Houston.
2. On August 7, 2020, the Court of Appeals issued its decision in the cases, finding that the trial court abused its discretion, reversed the judgment denying the writ applications, ordered that Mr. Gomez's original bonds be reinstated, and ordered the mandate to take effect immediately. Mr. Gomez was subsequently released from the custody of the Harris County Sheriff.
3. On August 24, 2020, this Court granted the State's motion to stay the mandate and ordered the Court of Appeals to recall the mandate. Mr. Gomez subsequently surrendered himself and was taken back into the custody of the Harris County Sheriff to continue be-

ing held on the two cases with the bail amount reset back at \$150,000.

4. On November 20, 2020, Mr. Gomez posted surety bonds in the total amount of \$150,000 in the two underlying cases thereby securing his release from the complained-of, illegal detention.¹
5. The longstanding rule in Texas regarding habeas corpus is that “where the premise of a habeas corpus application is destroyed by subsequent developments, the legal issues raised thereunder are moot.” *Bennet v. State*, 818 S.W.2d 199, 200 (Tex. App.—Houston [14th Dist.] 1991, no pet.)(quoting *Saucedo v. State*, 795 S.W.2d 8, 9 (Tex. App.—Houston [14th Dist.] 1990, no pet.)). This includes when a habeas applicant who initially complains about the trial court’s action taken regarding bail is subsequently released on bond. *See Ex parte Guerrero*, 99 S.W.3d 852, 853 (Tex. App.—Houston [14th Dist.] 2003, no pet.)(per curiam).

¹ Counsel for Mr. Gomez has requested, pursuant to Rule 31.1 and 34.5(c), Texas Rules of Appellate Procedure, that the trial court clerk supplement the record with certified copies of the surety bonds given to secure Mr. Gomez’s release.

6. Mr. Gomez maintains that this appeal is now moot and should be dismissed as such. *See id.*

WHEREFORE, PREMISES CONSIDERED, Mr. Gomez respectfully requests this Court to dismiss this appeal as moot.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing instrument has been served on to the attorney for the State, Clint Morgan, Harris County District Attorney's Office and the State Prosecuting Attorney pursuant to Texas Rule of Appellate Procedure 9.5 (b)(1), through Appellant's counsel's electronic filing manager on November 21, 2020.

/s/ T. Brent Mayr

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ATTORNEY FOR
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